



CASTLEMAN ACADEMY TRUST

POLICY :

Gender Variant – Learners and Staff

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Please note that this policy is one of the suite of CAT Policies for School Standards Boards to acknowledge.

CASTLEMAN ACADEMY TRUST

Gender-Variant Policy – Learners and Staff

Our policies refer to Senior Leaders. This can mean Executive Head Teacher, Head Teacher or Head of School.

The culture in the UK could be described as “binary” and as a result, can create pressure on children, young people and staff in our schools, whose gender expression does not conform to the expectations of their families, teachers and wider society. Some will be aware that their gender feelings and expressions do not match the expectations of society, whilst other will not have “worked it out”.

The purpose of the Policy is to support transgender and gender- questioning learners, staff members and wider stakeholders and to prevent transphobia in our Trust. It seeks to minimise the distress and disruption to any learner or staff member involved by:

- Ensuring staff and Board Members are dealing with Transgender matters inclusively and sensitively
- Providing an inclusive environment for any Transgender learner or staff member
- Ensuring all staff and learners are aware of and educated on issues of Transgender.

Definition of Gender Variation

Terminology in this field is complex, sensitive and constantly shifting. For the purposes of this policy we have defined, and uses the term, “trans-gender”.

‘Transgender’ and ‘trans’ describe people whose sense of gender is deemed as being different to the sex they were assigned at birth. However, wherever possible, individuals should be given opportunities to say how they identify or describe themselves. This is called ‘self-identified gender’. When considering trans identities, it is important to understand that there is a difference between sex and gender. Sex refers to our biology (chromosomal make up, genitalia, hormones) and as such is often used in reference to the physical anatomy of a person (for example, male, female or intersex). Gender identity is understood as our internal sense of self as well as how we express ourselves. Young people may question their gender identity for a range of reasons and this may not mean they are definitely trans or will go on to transition. The important thing is to validate the young person’s identity as it is now, and support any changes that may arise as they come to explore their gender identity further. Some people who consider their gender identity to be fluid may use the term gender queer or gender fluid or non-binary to describe themselves. They may also use gender-neutral pronouns (for example, ‘they’ or ‘them’) or prefer people to not use any pronouns to describe them.

Gender identity and sexual orientation:

Gender identity concerns your internal sense of self. This is completely different to sexual orientation, which concerns who you are attracted to. While gender identity and sexual orientation are very different, there is a relationship between transphobia, biphobia and homophobia. Trans people often experience homophobic abuse, and lesbian, gay and bisexual people will often experience discrimination based on their gender presentation.

Legal Obligations

The Equality Act 2010, Human Rights Act 1998 and UN Convention on the Rights of the Child (UNCRC) provide legal protection to children and young people who are gender variant.

The UNCRC protects the rights of young people up to the ages of 18 and it has 54 articles. The articles relevant to supporting trans children and young people are:

Article 12: Children have the right to say what they think should happen when adults are making decision that affect them and to have their opinions taken into account.

Article 13: Children have the right to freely express their thoughts and opinions, and to get and share information (as long as the information is not damaging to them or to others).

Article 16: Children have the right to privacy.

Article 24: Children have the right to health and good quality health care.

Articles 28 and 29: Children have the right to an education that will develop their personality, talents and abilities to the full.

CAT Schools will work with gender-variant pupils, their families and staff to ensure these rights are protected for all. We will listen to pupils, parents and staff and wherever possible, follow their lead and preferences.

Equality Act 2010

Under the Equality Act 2010, the Public Sector Equality Duty requires public bodies (including schools and education settings) to:

- Eliminate discrimination, victimisation and harassment
- Advance equality of opportunity
- Foster good relations between persons who share a relevant protected characteristic and persons who do not. It also requires education settings to have equality objectives and information published on their websites. The Equality Act 2010 provides protection from discrimination in relation to the following “protected characteristics”:
 - Age
 - Disability
 - Gender reassignment
 - Married or civil partnership
 - Pregnancy or maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation

There is no hierarchy to the characteristics included in the Equality Act 2010, and all work on inclusion should aim to raise awareness, empathy, respect and understanding in order to foster good relations between different groups.

The Equality Act 2010 (section 7) protects trans children and young people with the protected characteristic of gender reassignment, which is defined by the act as follows:

“A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex”. As Department for Education Guidance on the Equality Act 2010 states “This definition means that in order to be protected under the Act, a pupil will not necessarily have to be undertaking a medical procedure to change their sex but must be taking steps to live in the opposite gender, or proposing to do so”.

Ofsted Common Inspection Framework:

Under the Ofsted Common Inspection Framework (2019), inspectors will assess the extent to which the school complies with the relevant legal duties under the Equality Act 2010, including advancing equality of opportunity and taking positive steps to eliminate discrimination, victimisation and harassment. One of the ways that the effectiveness of leadership and management is evaluated is by the active promotion of equality and diversity, tackling bullying and discrimination and narrowing any gaps in achievement between groups or learners. The framework also states that schools will be judged on pupils’ understanding of the protected characteristics and how equality and diversity are promoted. In “Outstanding” schools, “Pupils behave with consistently high levels of respect for others. They play a highly positive role in creating a school environment in which commonalities are identified and celebrated, difference is valued and nurtured, and bullying, harassment and violence are never tolerated.” The Ofsted Inspecting Safeguarding (2018) guidance highlights that action may be needed to protect pupils from transphobic abuse and prejudice-based bullying.

Safeguarding

There are no issues under child protection or safeguarding law, or practice specific to trans children and young people, aside from what is in place to keep all children and young people safe.

Our school follows the DfE statutory safeguarding guidance Keeping Children Safe in Education. There are no provisions in child protection and safeguarding legislation specific to trans, non-binary and gender questioning children and young people apart from those measures to keep **all** children safe.

Being trans in itself is not a safeguarding risk

There is nothing in the statutory guidance that would prohibit trans children and young people from using the toilets or changing rooms that reflect their gender identity, or in which they feel most comfortable.

However, the comfort and dignity of all must be considered and separate arrangements for trans children and young people may be appropriate and will be discussed with the learner and their parents/guardians. The guidance highlights how emotional abuse is a safeguarding issue and “may involve serious bullying (including cyberbullying)”.

How will our Trust create an inclusive environment for gender-variant pupils and adults.

Our Trust is working to ensure that the whole school environment is supportive to trans and gender-questioning children, young people and staff, by:

- Promoting a culture and whole school environment that celebrates difference and diversity and one in which all children and young people can see themselves reflected and valued
- Ensuring staff and pupils will not be denied fair and equal treatment because of their gender identity.
- Developing systems and processes, which support vulnerable learners and staff.
- Developing and implementing effective anti-bullying and equality policies, which ensure the whole school community challenges, records bullying, and prejudice-based incidents effectively and are confident in challenging sexist and homophobic bullying
- Ensuring the curriculum provides opportunities to challenge stereotypes, including those based on gender, and avoids making assumptions about sex, gender, gender identity and sexual orientation
- Where possible, and in an age appropriate fashion, participate in events such as LGBT History Month and ensure visibility of trans people and their achievements.
- Asking learners and adults to “self-identify” rather than label in order to avoid using the wrong term that may cause offence.
- Making every effort to address adults and children in the way they have requested.
- Using gender-neutral terms such as “learners” or “students” or “staff”
- Avoid, where possible, gender segregated activities and where this cannot be avoided, allow the pupil to access the activity that corresponds to their gender identity.
- Making uniform inclusive.
- Having positive relationships with learners, parents and carers. Listen and respond to individual needs and preferences. Preventing transphobia and supporting trans learners. As with any child or children with a protected characteristic, a whole school approach is needed to support and keep them safe.
- Acknowledging there will be trans people within the school community as parents and carers, staff, governors and children and young people, and that they will positively enrich the school community
- Closely monitoring all areas of the curriculum and resources to ensure that they do not contain gender stereotypes or transphobic material
- Ensuring that the curriculum and in particular PSHE is used to challenge gender stereotypes, support the development of a positive sense of gender identity, develop understanding of trans issues and prevent transphobia.
- Making it explicitly clear that any abuse, harassment and bullying, including transphobic, (e.g. name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, intrusive questions) are serious disciplinary offences and will be dealt with promptly under the appropriate procedure.
- Effectively challenging, recording and dealing with abuse, harassment and bullying, including gender based and transphobic, (e.g. name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, intrusive questions) as well as monitoring incidence of transphobic abuse, harassment and bullying, and use this information to inform whole school developments
- Ensuring staff or pupils who wish it to be known that they are transgender will be provided with a supportive environment. However, it is the right of the individuals to choose whether they wish to be open about their gender identity. To “out” someone, whether staff or pupil, without that person’s permission, is a form of harassment, and will be treated as such.

- Making reasonable adjustments to accommodate absence requests for treatment and external sources in line with their absence policy. Sensitive care will be taken when recording the reason for absence.
- Developing a “bank” of information, support services and information to support pupils, staff and families with regard to gender variation.

Provide appropriate toilets and changing facilities

Toilets

CAT schools are committed to providing a mix of toilet facilities to enable all pupils and staff privacy and comfort, including:

- Single gender toilets
- Blocks of floor-to-ceiling toilets that can be used by everyone, with sanitary bins in each cubicle
- Accessible single toilets

Changing facilities

Needs with regard to Changing facilities will be discussed and assessed on a case-by-case basis.

Responding to bullying: Under the **Education and Inspections Act 2006** schools must have measures in place to prevent all forms of bullying, including transphobic bullying, in line with [section 89 of the Education and Inspections Act 2006](#).

Any form of bullying towards transgender or transitioning learners will be taken seriously. All employees have a responsibility to support learners and must report any incident of bullying in accordance with policy. Please refer to our Anti-Bullying Policy.

Confidentiality, Information Sharing and GDPR:

All people, including children and young people, have a right to privacy. This includes the right to keep private one’s gender identity at school. Information about a child/young person’s transgender status, legal name, or sex assigned at birth may also constitute confidential information.

A child or young person being trans or questioning their gender identity does not constitute a safeguarding concern or something where the child’s parents or carers have to be informed. Children and young people should be supported to communicate openly with their parents and carers whilst not pressing them to do so.

Staff should not disclose information that may reveal a child or young person’s trans status to others, including parents/carers, unless legally required to do so or if the child or young person has agreed for the information to be shared. There may be circumstances where sharing information between professionals is appropriate. For example, where there is a clear welfare or support need to do so and through consultation with the child/young person and/or parent/carer as appropriate.

Staff **must not** discuss trans or gender questioning children/young people, or any of their students, outside of school with friends or family members, even when making no particular reference to their name or personal details. When a child/young person initially discloses their trans status, it is important to talk to them about confidentiality and who, if anyone, they would like information to be shared with.

Under GDPR Article 9, 'special category data' relates to more sensitive topics, which may pose a risk to people's privacy and which can only be processed under certain conditions. Although regulations do not specifically mention trans, they cover gender as special category data therefore information relating to a child/young person's trans status is of a sensitive nature and may be treated as 'special category data'. This does not prevent processing or sharing; but it requires particular diligence to security and privacy when doing so. Such data should not be processed when there is no need to do so, but may be essential to safeguarding, for example, and should be managed accordingly.

Name Changing and Exam Certification

If a Transgender learner wishes to have their preferred name recognised on school systems, this will be supported and will appear on letters home, report cycles, bus pass information etc. (usually in the "preferred to be known as" option in the school's MIS. Furthermore, the change of name and associated gender identity will be respected and accommodated by the school. It is a real indicator that the Transgender student is taking steps to, or proposing to move towards a gender they feel they wish to live in.

This will be mirrored in school HR systems for staff.

It is possible for any school document to be changed to reflect the chosen name of the young person. Changing the gender recorded on a birth certificate, however, is not possible until a Gender Recognition Certificate has been issued. In order to change a name on other official documents such as a passport, it might be necessary for evidence of change of name to be produced: there are two main ways in which this can be done, by deed poll and by statutory declaration. A person under 16 years of age cannot change their name legally without the consent of a parent.

Supporting Documents & Guidance

Guidance on Combating Transphobic Bullying in Schools – www.gires.org.uk

A Guide to Supporting Trans Children & Young People – Action for Children

Supporting Pupils who are Trans - <https://schoolleaders.thekeysupport.com/pupils-and-parents/pupil-health-and-wellbeing/pupil-wellbeing/supporting-a-trans-pupil/?marker=live-search-q-trans%20pup-result-1>

This policy was agreed and will be reviewed regularly by the Trust Board as per the published policy cycle.

Equality Impact Assessment

This policy has been reviewed with the equality impact considerations as laid down in the trust's Equality Policy.